IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

MONDAY, THE 8TH OCTOBER 2007 / 16TH ASWINA 1929

Crl.MC.No. 5068 of 2003(C)

CC.824/2003 of JUDL.MAGISTRATE OF FIRST CLASS-II, ALUVA

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PETITIONER:

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1. JOY J.MANJOORAN S/O. JOSEPH,
   MANJOORAN CHIT FUNDS LTD., PALARIVATTOM,
   COCHIN - 682 025.

2. JOLLY JOSEPH MANJOORAN S/O. JOSEPH,
   MANJOORAN CHIT FUNDS LTD., PALARIVATTOM,
   COCHIN 682 025.

3. JOMY JOSEPH MANJOORAN S/O.JOSEPH,
   MANJOORAN CHIT FUNDS LTD., PALARIVATTOM,
   COCHIN-682 025.

4. JOJI JOSEPH MANJOORAN, S/O. JOSEPH,
   MANJOORAN CHIT FUNDS LTD., PALARIVATTOM,
   COCHIN 682 025.

5. JOY THARAYIL, AGED 55 YEARS,
   THARAYIL HOUSE, JANATHA SOUTH ROAD,
   PALARIVATTOM, COCHIN-680 025.

6. THOMAS JOY S/O. JOY, AGED 22 YEARS,
   THARAYIL HOUSE, JANATHA SOUTH ROAD, PALARIVATTOM,
   COCHIN 680 025.

BY ADV. SRI.TOM K.THOMAS

RESPONDENTS:

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1. STATE OF KERALA, REPRESENTED BY PUBLIC
   PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM.

2. RAJAN J.MUNDAKKAL, AGED 33 YEARS,
   S/O. JACOB MUNDAKKAL, 33/3252A, VENNALA P.O.,
   COCHIN 682 028.

BY PUBLIC PROSECUTOR
SRI.JACOB A.MUNDACKAL

THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON 08/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K.R.UDAYABHANU, J.

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Crl.M.C.No.5068 of 2003-C

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Dated this the 8th day of October, 2007

O R D E R

The petitioners who are the accused in C.C.No.824/2003 in the file of the Judicial Magistrate of the First Class-II, Aluva, have sought for getting quashed the above proceedings on the allegation that complaint is a false one and amounted to abuse of process of the court.

2. It is submitted that the petitioners 1 to 4 are the maternal uncles of the second respondent complainant and fifth petitioner is the co-brother of the father of the complainant and sixth petitioner is the son of the fifth petitioner. It is further submitted that the above criminal proceedings is the result of a private complaint filed by the second respondent alleging offences under Sections 143, 147, 323, 447 and 506(i) I.P.C. It is pointed out that the counsel through whom the proceedings have been initiated is the father of the second respondent himself. The allegation in the private complaint is that on 08/09/2002 in the night, the accused crash landed in the house owned and occupied by the complainant and threatened and attacked him with weapons etc. It is submitted that the father of the second

respondent is living separately. It is further submitted that at the instance of the second respondent, the mother of the second respondent, who owned the property and the house, was made to execute a power of attorney in the name of the father for availing a loan and subsequently, the father executed a settlement deed in favour of the second respondent misusing the power of attorney. The mother and daughters are living in the particular house. Subsequently, on coming to know of the settlement deed the mother cancelled the power of attorney as well as the settlement deed on 07/09/2002. It is alleged that it is on coming to know about the cancellation of the above document that the second respondent and his father who is a lawyer came to the house and made attempts to drive out the mother and daughters. The same was prevented with the help of the petitioners herein. Annexure-B is the copy of the complaint filed by the mother before the Sub Inspector of Police,Thrikkakara Police Station, alleging that the second respondent and her husband who is the father of the second respondent and others came to the house and attacked her etc on 08/09/2002. Annexure-C is the copy of the Original Suit filed by the second respondent against the mother as well as the father for declaration as to the possession of the property and for a declaration that the

cancellation deeds are null and void and also for a perpetual prohibitory injunction. Annexure-D is the copy of the Original Suit filed by the mother before the Family Court, Ernakulam, seeking declarations also with respect to the possession of the property. It is submitted that the above O.S. has been decreed. It is also pointed out that no complaint has been filed before the police and that criminal proceedings initiated on the basis of the private complaint is utterly false.

3. There was no representation for the second respondent.

In the circumstances and in view of the uncontroverted allegations, I find that the proceedings pending before the court below is liable to be set aside; and I do so. The proceedings in C.C.No.824/2003 in the file of the Judicial Magistrate of the First Class- II, Aluva, is herewith quashed.

The Crl.M.C is allowed as above.

K.R.UDAYABHANU,
Judge

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